

# The Appellants CASE.

*Tho. Wilson, Tho. Sheppard,*  
*Wm. Claxton, and Geo. Parker.* } Appellants.

*Thomas Townley,*  
*Attorney at Law.* } Respondent.

**T**HAT the Appellants are Occupiers of several Houses, Shops, Ware-houses, Cellars, and Stables in *St. Bride's Parish*, within the Liberties of the City of *London*, the Rectory whereof is impropriate and belonging to the Dean and Chapter of *Westminster*.

That by an Act of Parliament, and Decree therein mentioned, made in the 37 Year of King *Henry 8.* it is enacted and decreed, That the Citizens and Inhabitants of the City of *London*, and the Liberties thereof, should pay, of every 10 *s.* Rent by the Year, of all Houses, Shops, Ware-houses, Cellars, and Stables, 1 *s.* 4 *d.*  $\frac{1}{2}$  per Annum, and of every 20 *s.* Rent, 2 *s.* 9 *d.* and so above the Rent of 20 *s.* by the Year: Which Act may be reasonably presum'd either to have been repeal'd, or not thought fit to be put in Execution; for that no Parish in *London* pays 2 *s.* 9 *d.* for every 20 *s.* of the improv'd Rents, for the Tythes of their Houses.

That if the said Act and Decree were not repeal'd, but are still in Force, yet there is a *Proviso* in the said Decree contain'd, That where a less Sum than 2 *s.* 9 *d.* in the 20 *s.* Rent, had been accustomed to be paid for Tythes, that then in such places the Citizens and Inhabitants of *London*, and the Liberties of the same, shall pay but after such Rate as hath been accustomed.

That 2 *s.* 9 *d.* according to the improv'd Yearly Value of the Houses, Shops, Ware-houses, Cellars, and Stables in the said Parish, was never paid in the said Parish of *St. Bride's* for the Tythe thereof, and above the Sum of 3 *d.* per Pound was never paid by the Inhabitants of the said Parish, or any of them, to the Dean and Chapter of *Westminster*, their Lessees or Farmers, or any of them, for or in lieu of Tythes of Houses, Shops, Ware-houses, Cellars, and Stables in the said Parish, nor was there ever, till very lately, any greater Sum demanded by them for the same; and which, in all Probability, would have been done, had there been so great a Sum as 2 *s.* 9 *d.* in the Pound due and payable.

That by an Act of Parliament made in the 22 and 23 Years of the Reign of the late King *Charles 2.* Chap. 15. reciting, Whereas the Tythes in the City of *London* were levy'd and paid with great Inequality, and are, since the late dreadful Fire there, in the rebuilding of the same, by taking away of some Houses, altering the Foundation of many, and the new erecting of others so disorder'd, that in case they should not, for the time to come, be reduc'd to a Certainty, many Controversies and Suits of Law might thence arise; it was enacted, That the Annual certain Tythe of all Parishes in the said City, and Liberties thereof, whose Churches had been demolish'd, or in part consum'd by the late Fire, should be as followeth, (that is to say) The Annual certain Tythes, or Money in lieu of Tythes of the said Parish of *St. Bride's*, 120 *l.* and the Tythes of other the Parishes in the said City and Liberties, whose Churches were demolish'd, or in part consum'd, were reduc'd to a certain Annual Sum.

That by the said Fire, all the Houses in the said Parish (except some few) were consum'd; and in the rebuilding of the said Parish, great Alterations and Confusions were made, by reason that several Streets were enlarg'd, for the publick Good, by laying of several Houses into the said Streets, and in building of others in other places where none were before, and by reason of the rebuilding of some Houses of some of the Inhabitants upon part only of the Ground where formerly others stood, whereof the Appellant *Wilson's* House is one.

That, as humbly conceived, the Tythes of the said Parish being reduc'd by the said Act of 22 and 23 of *Car. 2.* to a certain Annual Sum, all former Tythes and Payments ceased from that time, and the Statute and Decree in the 37 Year of *Henry 8.* if they were in Force before, yet as to the Parishes mentioned in the said Act of King *Charles 2.* they are thereby repealed.

That by reason of the said Fire, it may be reasonably presum'd, that several Parish-Books, and other Evidences, were lost, whereby the certain Annual Sums payable in the said Parish, in lieu of Tythes, might have certainly appeared; and for the Reasons aforesaid, it may equitably and reasonably be presum'd, that at the making the said Statute, 37 *Henry 8.* and long before there were some constant Payments in lieu of Tythes within the said Parish, which were less than 2 *s.* 9 *d.* in the Pound of the improv'd Rent, tho' the same, with the utmost Strictness and Exactness requir'd by the Rules of Law, cannot now be made out; and if so, then by the aforesaid *Proviso* in the said Decree made in the 37 Year of King *Henry 8.* the Inhabitants are only to pay according to the Rates then accustomed.

That before the said Fire, the said Dean and Chapter, as Impropiators as aforesaid, were at the sole Charge of a preaching or officiating Minister in the said Parish of *St. Bride's*, yet by the said Act of 22 and 23 *Car. 2.* the Inhabitants of the said Parish are charged with the Payment of 60 *l.* per Annum to the said preaching or officiating Minister, which is as much as the said Impropiators are by the said Act to pay, which it is very probable the Makers of that Law would not have done, had they conceiv'd the Inhabitants of the said Parish were lyable to the Payment of 2 *s.* 9 *d.* in the Pound, according to the improv'd Yearly Value of their Houses, Shops, Ware-houses, Cellars, and Stables.

All which, notwithstanding the Respondent Lessee of the said Rectory under the said Dean and Chapter of *Westminster*, at the Yearly Rent of 113 *l.* 6 *s.* 8 *d.* did lately exhibit his Bill in the Court of *Exchequer* against the Appellants, to compel them to pay for and in lieu of the Tythes of their Houses, Shops, Ware-houses, Cellars, and Stables, after the Rate of 2 *s.* 9 *d.* for every Pound of the full improv'd Yearly Rents or Values thereof, and obtain'd a Decree in the same, under Colour and Pretence of the said Act and Decree made in the said 37 Year of *Hen. 8.*

That the publick Rates, Taxes, and Payments within the said Parish, amount to above 7 *s.* per Annum in the Pound besides the said 2 *s.* 9 *d.* which Sum of 2 *s.* 9 *d.* (the Yearly Value of the said Parish, as it is rated to the Land Tax, being above 18000 *l.* per Annum) will amount to above 2475 *l.* per Annum, which exceeds the Yearly Value of most Bishopricks in *England*; and which said Sum of 2 *s.* 9 *d.* in the Pound, if it should be exacted, will be the utter Ruin of many poor People of the said Parish, and tend to the Depopulation thereof; and there is great Reason to believe, if this Decree stands confirm'd, the Respondent will exact the said 2 *s.* 9 *d.* in the Pound, for that he hath served above 500 of the Inhabitants with Subpœna's, to compel them to pay 2 *s.* 9 *d.* in the Pound by the Year, for their Tythes, according to the full improv'd Yearly Value of their Houses, Shops, Ware-houses, Cellars, and Stables, 200 whereof at the least were served with Subpœna's since this Appeal hath been depending in this Honourable House, and amongst whom are the Appellants, *Thomas Wilson* and *George Parker*.

Wherefore these Appellants have appeal'd from the said Decree in the Court of *Exchequer*, and humbly hope the same shall be reversed.

Con. Phipps.